

Virginia Coal Surface Mine Reclamation Regulations

**4 VAC 25-130-700.5. Definitions.**

“Collateral bond” means an indemnity agreement in a sum certain executed by the permittee and deposited with the division supported by one or more of the following:

(a) The deposit of cash in one or more federally-insured accounts, payable only to the division upon demand;

(b) Negotiable bonds of the United States, the Commonwealth of Virginia, or a political subdivision thereof, endorsed to the order of, and placed in the possession of the division; the bond will only be acceptable if the issue is rated “A” or better by Moody’s Investor Service, Inc. or Standard and Poor’s, Inc.;

(c) Certificates of deposit issued by Virginia banks payable only to the division and placed in its possession. No security in default as to principal or interest shall be acceptable as collateral; or

(d) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only to the Department at sight prepared in accordance with the Uniform Customs and Practices for Documentary Credits (1993 revision) International Chamber of Commerce (Publication No. 500).

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**4 VAC 25-130-800.21. Collateral bonds.**

(a) Collateral bonds, except for letters of credit, shall be subject to the following conditions: The division shall--

(1) Keep custody of collateral deposited by the applicant until authorized for release or replacement as provided in this Subchapter.

(2) Value collateral at its current market value, not at face value.

(3) Require that certificates of deposit be made payable to or assigned to the Commonwealth of Virginia, Director-Division of Mined Land Reclamation, both in writing and upon the records of the bank issuing the certificates. The division shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates and that such certificates be automatically renewable.

(4) Not accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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(5) Require the applicant to deposit the certificates of deposit in a sufficient amount to assure that the division will be able to liquidate the certificates prior to maturity, upon forfeiture, for the amount of the bond required by this Subchapter.

(6) Require the applicant to designate, with the bond submitted, the person to whom--

(i) The collateral will be endorsed and returned upon release or replacement as provided in this Subchapter; and

(ii) Any interest or dividends paid on the collateral shall be paid.

(b) Cash accounts shall be subject to the following conditions:

(1) The division may authorize the permittee to supplement the bond through the establishment of a cash account in one or more federally- insured or equivalently protected accounts made payable upon demand to the division. The total bond including the cash account shall not be less than the amount required under terms of performance bonds including any adjustments, less amounts released in accordance with 4 VAC 25-130-800.40 or 4 VAC 25-130-801.18.

(2) Any interest paid on a cash account shall be paid to the permittee.

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(3) Certificates of deposit may be substituted for a cash account with the approval of the division.

(4) The division shall not accept an individual cash account in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) Letters of credit shall be subject to the following conditions:

(1) The letter may be issued only by a bank organized or authorized to do business in the United States and must conform to the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce (Publication No. 500);

(2) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the division if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date; and

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(3) The letter of credit shall be payable to the Department at sight, in part or in full, upon receipt from the division of a notice of forfeiture issued in accordance with 4 VAC 25-130-800.50.

(e d) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the division at the time collateral is offered.